cise of the police power, for preventing disease among animals. The decisions are based on the effect of the disease on the animal industry itself. See note to 43 L. R. A. (N. S.) 1066, and cases therein cited. So also have statutes been passed to prevent and eradicate diseases among agricultural growths of various sorts, including orchards. See *State* v. *Boehm,* 92 Minn. 374, where a statute which forbade owners from letting certain weeds go to seed was upheld. In *Balch* v. *Glenn,* 85 Kan. 735, a statute was involved which provided for the extermination of the San José scale and other orchard pests. It was held that that was an appropriate exercise of the police power. For other statutes of a similar nature which have been held constitutional, see *State* v. *Nelson,* 22 S. D. 23; *State* v. *Main,* 69 Conn. 123; *Colvill* v. *Fox,* 51 Mont. 72; *Louisiana State Board* v. *Tanzmann,* 140 La. 756, and *Los Angeles Co.* v. *Spencer,* 126 Cal. 670. It was not necessary to the validity of the statute in the instant case that compensation be provided. *Commonwealth* v. *Alger,* 7 Cush. (Mass.) 53. Neither is the statute invalid because certain persons derive special benefit from it, so long as all persons subject to it are treated alike under the same conditions. *Barbier* v. *Connolly, supra.*

CONSTITUTIONAL LAW—CONSTITUTIONALITY OF STATUTE TO CONSERVE NATURAL GAS.—A statute of Wyoming declares that the use of natural gas for products where the gas is burned without the heat being fully and actually applied for other manufacturing or domestic purposes is wasteful and shall be unlawful when the gas well is located within ten miles of any town or industrial plant. It is aimed, very evidently, at the carbon black industry. The plaintiff, a carbon black company, contending that the statute was beyond the police power of the state and is discriminatory, sought an injunction to prevent the officers of the state from enforcing the act. *Held,* the statute is within the police power of the state, and injunction refused. *Walls et. al.* v. *Midland Carbon Co. et al.* (U. S. Sup. Ct., 1920), 41 Sup. Ct. Rep. 118.

The first problem in the principal case is the determination of whether the conservation of natural gas or the prohibition of its waste is within the police power of the state or is an arbitrary interference with private rights. The nature of gas is peculiar. Unlike other minerals, it possesses the power to move about. It has been held that the owners of the surface over a gas field, while they have the exclusive right on their land to sink wells for the purpose of extracting oil and gas, have no right of property therein until, by actually bringing the oil and gas to the surface, they have reduced these to physical possession. *Townsend* v. *State,* 147 Ind. 624. But see 18 MICH. L. REV. 463, *et seq.* The use by one surface owner affects the use of other owners and an excessive use by one diminishes the use by others. Hence it has been held that the police power of the state can be exercised for the purpose of protecting all the collective owners, by securing a just distribution of their privilege to reduce to possession and to reach the same end by preventing waste. *Ohio Oil Co.* v. *Indiana,* 177 U. S. 190. Moreover, the public as well as the surface owners have an interest to prevent the waste of oil and gas, because in the preservation of these the well-being and prosperity of the entire community is largely involved. *Townsend* v. *State, supra.* A

number of states have enacted legislation for the conservation of their natural resources, which has been held constitutional. An Indiana statute prohibited the waste of gas or oil by escape from the well for more than two days after the gas or oil had been struck. *Ohio Oil Co.* v. *Indiana, supra.* A statute passed in New York for the preservation of mineral springs prohibited the pumping of mineral water to use in the manufacture of carbonic acid gas. *Lindsay* v. *Nat. Carbonic Gas Co.,* 220 U. S. 61. A California statute for the prevention of waste of artesian waters provided that an uncapped well was a nuisance. *Ex parte Elam,* 6 Cal. App. 233. A New Mexico statute to prevent the waste of artesian waters declared a well, flowing without restriction and with a waste of water, to be a nuisance, and provided for its abatement. *Eccles* v. *Ditto,* 23 N. M. 235. But see *Huber* v. *Merkel,* 117 Wis. 368. The Maine court considered valid a proposed statute for the prevention of freshets and droughts by the regulation and restriction of the cutting of young trees on wild lands, when no beneficial use was to be made of the trees or the land. *Opinion of the Justices,* 103 Me. 506. In the principal case the plaintiff contended that the statute deprived him of his property without due process of law. He showed that carbon could not be made without dissipation of the heat evolved, that no other use could be made of his plant and gas well. If, however, there is a proper police purpose, a reasonable relation between the means used and the accomplishment of that purpose, and a valid classification, the statute is a proper exercise of the police power of the state, even though it results in depriving the owner of all beneficial use of his property. The purpose of the statute in the principal case, the prevention of waste of natural gas, is within the police power of the state—the promotion of the general welfare and prosperity. *Ohio Oil Co.* v. *Indiana, supra.* The means chosen in this case are reasonable to accomplish such purpose. The inefficiency of the carbon black industry is very high. Preventing such wasteful methods conserves the gas supply. The statute is not unconstitutional as depriving the owner of his property without due process of law. The classification in the statute is made upon a reasonable basis, not arbitrarily. It excepts from its operation any gas well more than ten miles from a town or industry. The ground for such provision being that a well that distance from a town would not interfere with the supply of gas from which the town drew. A classification having some reasonable basis does not offend against the equal protection of the laws clause merely because it is not made with mathematical nicety. *Lindsey* v. *Carbonic Gas Co., supra.* Acts for the conservation of natural resources are within the purposes of the police power of the state and are most commendable. The statute here prevents the production of a commodity whose inevitable effect was to exhaust the gas supply shortly.

CONSTITUTIONAL LAW—DOWER NOT A "PRIVILEGE OR IMMUNITY" WITHIN THE CONSTITUTION.—A statute limited the right to dower in lands within the state in case of non-residents to lands of which the husband died seized. This was attacked as abridging the "privileges or immunities" of citizens,